

Applicants : Yee Mau CHEN and Sum Fat POON
U.S. Serial No.: 10/616,417
Filed : July 9, 2003
Page : 2

REMARKS

Claims 1, 2, 4, 6-9 and 11-20 are pending.

Restriction Requirement

The Examiner stated that restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1, 2, 4, 6-9, 11, 12 and 16-20 are drawn to brew head assembly, classified in class 99, subclass 302R.
- II. Claims 13-15, drawn to a method of operating a locking device, classified in class 70, subclass 266.

The Examiner stated that the inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as product and process of use. The inventions can be shown to be distinct if either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case the process of using the product as claimed can be practiced with another materially different product, such as on which does not require a lever.

In response, Applicants respectfully traverse the Examiner's above reasons for issuing the restriction requirement. Applicants respectfully maintain that the methods of claims 13-15 are not distinct in that the steps or process of using

Applicants : Yee Mau CHEN and Sum Fat POON
U.S. Serial No.: 10/616,417
Filed : July 9, 2003
Page : 3

the brew head as described in this Application can only be performed with a novel brew head assembly of Applicant's claimed invention, which comprises: a slide assembly, a sealing assembly, and a pop-up and roll-back assembly.

Applicants contend that without a lever operatively linked to a slider in an arrangement as disclosed and claimed in this Application, which will cause the slider to move backward and release the brew head when the lever is pulled, the brew head cannot be opened simply using one hand.

Related Inventions Are Not Distinct

The Examiner admitted that Inventions I and II are related as product and process of use. The Examiner alleged that the inventions are distinct because the process of using the product as claimed can be practiced with another materially different product.

Where the Examiner alleged that the related inventions as claimed are distinct under MPEP § 806.05(c) - (i), the Examiner, in order to establish reasons for insisting upon restriction, must show by appropriate explanation one of the following:

- (A) separate classification thereof;
- (B) separate status in the art when they are classifiable together; and
- (C) a different search field. See MPEP § 808.02.

However, the Examiner has not provided any reasons for insisting upon restriction. Accordingly, Applicants respectfully request that the restriction be withdrawn, and that claims in Group I and II be examined together.

Applicants : Yee Mau CHEN and Sum Fat POON
U.S. Serial No.: 10/616,417
Filed : July 9, 2003
Page : 4

Criteria for Restriction Has Not Been Met

The requirements for restriction between patentably distinct inventions are: (a) the invention must be independent or distinct as claims; and (b) there must be a serious burden on the Examiner if restriction is required.

Applicants maintain that the Examiner has not shown that Group I and II are independent or distinct as claimed. Applicants further maintain that there is no serious burden for the Examiner to examine all these claims together by searching the brew head assembly and method of operating a locking device of the brew head assembly. Accordingly, Applicants respectfully request the reconsideration and withdrawal of this restriction requirement.

Election of Invention

Applicants would like to elect Group I, directed to claims 1-2, 4, 6-9, 11-12 and 16-20 for further prosecution of the application.

If a telephone interview would be of assistance in advancing prosecution of the subject application, Applicants' undersigned attorney invites the Examiner to telephone at the number provided below.

Applicants : Yee Mau CHEN and Sum Fat POON
U.S. Serial No.: 10/616,417
Filed : July 9, 2003
Page : 5

No fee is deemed necessary in connection with the filing of this Communication. However, if any fee is required, authorization is hereby given to charge the amount of any such fee to Deposit Account No. 50-1891.

Respectfully submitted,

Albert Wai Kit Chan

Albert Wai-Kit Chan
Registration No. 36,479
Attorney for Applicants
Law Offices of
Albert Wai-Kit Chan, LLC
World Plaza, Suite 604
141-07 20th Avenue
Whitestone, New York 11357
Tel: (718) 357-8836
Fax: (718) 357-8615
E-mail: kitchanlaw@aol.com